

## Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

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Date:

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### LEGEND

Distributing =

Controlled =

Distributing US =

Controlled US =

Distributing Operations =

Controlled Operations =

Distributing Support =

Controlled Support =

Distributing Foreign 1 =

Controlled Foreign 1 =

Distributing Foreign 2 =

Controlled Foreign 2 =

Corporation S =

Business X =

Segment A =

Segment B =

Year 1 =

Year 2 =

Year 3 =

Country 1 =

Country 2 =

Operation A =

Operation B =

Dear :

This letter responds to your letter dated May 10, 2016, requesting rulings on certain federal income tax consequences of a series of transactions (the “Proposed Transaction” as defined below). The material information submitted in that request and in subsequent correspondence is summarized below.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for rulings. Verification of the facts, representations, and other information may be requested as part of the audit process.

This letter is issued pursuant to section 6.03 of Rev. Proc. 2016-1, 2016-1 I.R.B. 18, regarding rulings on one or more significant issues that involve the tax consequences of a transaction (or part of a transaction) occurring in the context of a distribution under Section 355 of the Internal Revenue Code (the “Code”). This office has not reviewed any information pertaining to and expresses no opinion as to the overall tax consequences of the Proposed Transaction (as defined herein), including qualification under section 355 of the Code, or as to any issue or step not specifically addressed by this letter. Rather, the rulings contained in this letter only address discrete legal issues involved in the transaction. Further, except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

### Facts

Distributing, through the members of its separate affiliated group within the meaning of section 355(b)(3)(B) (the “DSAG”), is engaged in Business X that includes Segment A and Segment B. Each of Segment A and Segment B is engaged in Operation A and Operation B. Distributing, wholly owns Distributing Operations. Distributing Operations wholly owns Distributing US, Distributing Foreign 1, Distributing Foreign 2, Distributing Support, and Corporation S. .

Financial information submitted by Distributing indicates that Business X's Segment B has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

In Year 1, Distributing acquired Corporation S, a company engaged in the development of Segment A products in Business X, as part of a strategy of product expansion (the "Year 1 Acquisition"). After Distributing's acquisition of Corporation S, Distributing employed its experience in Business X to further develop Corporation S's products and successfully bring them to market. In Year 2, Distributing reevaluated its business strategy and decided to focus on areas related to Segment B products. It terminated its efforts in other unrelated areas and disposed of other assets, and concentrated its research and development primarily on Segment B products. Despite the abandonment of these other programs, Distributing continued the development of Segment A products. Sales of Segment A products commenced in Year 3.

#### Proposed Transaction

For what is represented to be a valid business purpose, Distributing proposes to separate Segment A from Segment B by contributing it to Controlled, and distributing the Controlled stock to its shareholders (together, the "Proposed Transaction").

(i) Distributing US will contribute the assets and liabilities, including employees, associated with Segments A's Operation A to Controlled US, a newly-formed State A limited liability company disregarded as an entity separate from Distributing US for federal tax purposes, in exchange for all of the interests in Controlled US. Controlled US will elect to be treated as a corporation for federal tax purposes.

(ii) Distributing Support will contribute all of its assets and liabilities, including employees, associated with Segment A's Operation A to Controlled Support, a newly-formed State A limited liability company disregarded as an entity separate from Distributing Support for federal tax purposes, in exchange for all of the interests in Controlled Support. Controlled Support will elect to be treated as a corporation for federal tax purposes.

(iii) Distributing Foreign 2 will contribute the assets and liabilities, including employees, associated with Segment A's Operation A to Controlled Foreign 2, a newly-formed Country 2 corporation, in exchange for all of the stock of Controlled Foreign 2.

(iv) Distributing US, Distributing Support, and Distributing Foreign 2, will distribute their respective interests in Controlled US, Controlled Support, and Controlled Foreign 2 to Distributing Operations.

- (v) Before Controlled Foreign 1 has any assets other than nominal capital, Distributing Foreign 1 will transfer shares of Controlled Foreign 1 to Distributing Operations. Distributing Foreign 1 will then transfer the assets and liabilities, including employees, associated with Segment A's Operation A held by Distributing Foreign 1 to Controlled Foreign 1 via demerger under Country 1 law.
- (vi) Distributing Operations will contribute the assets and liabilities, including employees, associated with Segment A's Operation B to Controlled Operations, a newly-formed State A limited liability company disregarded as an entity separate from Distributing Operations for federal tax purposes.
- (vii) Distributing Operations will contribute the interests in Controlled Operations and the stock of each of Controlled US, Controlled Foreign 1, Controlled Foreign 2, and Controlled Support to Corporation S.
- (viii) Distributing Operations will distribute the stock of Corporation S to Distributing.
- (ix) Distributing will contribute the stock of Corporation S and additional assets and liabilities associated with Segment A to Controlled.
- (x) Distributing will distribute all of the Controlled stock on a pro rata basis to Distributing's public shareholders (the "Spin-off").

Other than certain continuing arrangements on a transitional basis, following the Spin-off, the DSAG will continue the active conduct of Business X (except as it relates to Segment A, and Controlled, and its separate affiliated group will continue the active conduct of Business X related to Segment A), in each case independently and with its separate employees.

#### Representation

- (a) The DSAG has been engaged in the active conduct of Segment B of Business X for greater than 5 years.

#### Rulings

Based solely on the facts and information submitted and the representations set forth above, we rule as follows:

- (1) The Segment A Operation A business constitutes an expansion of Segments B's Operation A business and does not constitute the acquisition of a new or different business. Treas. Reg. § 1-355-3(b)(3)(ii) and Rev. Rul. 2003-38, 2003-17 I.R.B. 811, and Rev. Rul. 2003-18, 2003-7 I.R.B. 467.

(2) The Segment A Operation B business constitutes an expansion of Segments B' Operation B business and does not constitute the acquisition of a new or different business. Treas. Reg. § 1-355-3(b)(3)(ii) and Rev. Rul. 2003-38, 2003-17 I.R.B. 811, and Rev. Rul. 2003-18, 2003-7 I.R.B. 467.

### Caveats

Except as expressly provided herein, no opinion is expressed or implied concerning the tax treatment of the proposed transaction under any provision of the Code and regulations or the tax treatment of any condition existing at the time of, or effects resulting from the proposed transaction that is not specifically covered by the above rulings.

### Procedural Statements

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

*Richard K. Passales*

Richard K. Passales  
Senior Counsel, Branch 4  
Office of Associate Chief Counsel (Corporate)